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VIA E-FILING

**ENTERED
Office of Proceedings**

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**Part of
Public Record**

**Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-001**

**Re: STB Docket No. AB-6 (Sub-No. 476), BNSF Railway Company –
Discontinuance – In Iron and Crawford Counties, Missouri**

Dear Ms. Brown:

Pursuant to 49 C.F.R. § 1152.20(a)(1), attached is BNSF Railway Company's ("BNSF") Notice of Intent ("NOI") to Discontinue service over BNSF's Lead Line located between Cuba and Buick, in Iron and Crawford Counties, Missouri.

The NOI is in the form prescribed by 49 C.F.R. § 1152.21, and is being filed with the Board concurrently with the first publication of the NOI.

If you have any questions, please call me.

Sincerely,



Karl Morell

STB Docket No. AB-6 (Sub-No. 476)

**NOTICE OF INTENT TO
DISCONTINUE RAIL SERVICE**

BNSF Railway Company (BNSF) gives notice that on or about April 29, 2011, it intends to file with the Surface Transportation Board (the "Board"), Washington, DC 20423, an application for permission for the discontinuance of service on a railroad line known as BNSF's Lead Line extending from railroad milepost 87.6, at Cuba to the end of the line at railroad milepost 133.42, near Buick which traverses through United States Postal Service Zip Codes 65440, 65453, 65456, 65560, 65565, and 65566, a distance of 45.82 miles in Iron and Crawford Counties, MO. There are no agency stations on the line.

The line was embargoed on December 2, 2002, due to the State-ordered environmental remediation. Because of the remediation work and non-use of the line for over eight years, an investment of well over \$20,000,000 would be required to reopen the line. The reason for the discontinuance is that the cost of rehabilitating the line would render any operations on the line uneconomical. Based on information in BNSF's possession, the line contains land granted by the June 10, 1852 Act of Congress to the State of Missouri to aid in the construction of railroads in Missouri. Any documentation in the railroad's possession will be made available promptly to those requesting it.

This line of railroad has appeared on the system diagram map or included in the narrative in category 1 since February 24, 2010.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

The application will include the applicant's entire case for the discontinuance (case in chief). Any interested person, after the application is filed on April 29, 2011, may file with the Board written comments concerning the proposed discontinuance or protests to it. These filings are due 45 days from the date of filing of the application. All interested persons should be aware that because this is a discontinuance and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Persons who may oppose the discontinuance but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses, containing detailed evidence, should file comments. Persons opposing the proposed discontinuance that do wish to participate actively and fully in the process should file a protest.

Protests must contain the party's entire case in opposition (case in chief) including the following:

- (1) Protestant's name, address and business.
- (2) A statement describing protestant's interest in the proceeding including:
 - (i) A description of protestant's use of the line;
 - (ii) If protestant does not use the line, information concerning the group or public interest it represents; and
 - (iii) If protestant's interest is limited to the retention of service over a portion of the line, a description of the portion of the line subject to protestant's interest (with milepost designations if available) and evidence showing that the applicant can operate the portion of the line profitably, including an appropriate return on its investment for those operations.

(3) Specific reasons why protestant opposes the application, including information regarding protestant's reliance on the involved service [this information must be supported by affidavits of persons with personal knowledge of the fact(s)].

(4) Any rebuttal of material submitted by applicant.

In addition, a commenting party or protestant may provide a statement of position and evidence regarding:

(i) Intent to offer financial assistance pursuant to 49 U.S.C. 10904 to subsidize continued rail service;

(ii) Environmental impact;

(iii) Impact on rural and community development; and

(iv) Recommended provisions for protection of the interests of employees.

A protest may demonstrate that: (1) the protestant filed a feeder line application under 49 U.S.C. 10907; (2) the feeder line application involves any portion of the rail line involved in the discontinuance application; (3) the feeder line application was prior to the date the discontinuance application was filed; and (4) the feeder line application is pending before the Board.

Written comments and protests will be considered by the Board in determining what disposition to make of the application. The commenting party or protestant may participate in the proceeding as its interests may appear.

If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after the application is filed.

Those parties filing protests to the proposed discontinuance should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to 49 CFR Section 1152.25.

Written comments and protests should indicate the proceeding designation STB No. AB-6 (Sub-No. 476) and must be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington DC 20423, no later than June 13, 2011. Interested persons may file a written comment or protest with the Board to become a party to this discontinuance proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant: Karl Morell, Of Counsel, Ball Janik, LLP, 1455 F Street, N.W. Suite 225, Washington D.C. 20005 (202) 638-3307. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, each document filed with the Board must be served on all parties to the discontinuance proceeding. 49 CFR 1104.12(a).

The line sought to be discontinued will be available for subsidy for continued rail use if the Board decides to permit the discontinuance in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning subsidy terms is Karl Morell, Of Counsel, Ball Janik, LLP, 1455 F Street, N.W. Suite 225, Washington D.C. 20005 (202) 638-3307..

Persons seeking further information concerning discontinuance procedures may contact the Board or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis.

A copy of the application will be available for public inspection on or after May 2, 2011 at the Topeka, KS agency station located at 920 SE Quincy, Topeka, KS. Business hours are Monday through Friday between 7:00 AM and 3:00 PM. The carrier shall furnish a copy of the application to any interested person proposing to file a protest or comment, upon request.

Because this is a discontinuance proceeding and not an abandonment, no environmental or historic documentation is required.